

**REMARKS**

Claims 1-11 and 13-17 are pending. Claim 1 has been amended. No new matter has been presented.

Claims 1-8, 16 and 17 are rejected under 35 USC 101 because the claimed invention is directed to non-statutory subject matter. This rejection is respectfully overcome in view of the foregoing amendment to claim 1.

Claims 1-11 and 13-16 are rejected under 35 USC 103(a) as being unpatentable over Yang, U.S. Patent No. 6,724,464 in view of Finarov, U.S. Patent No. 6,657,736. This rejection is respectfully traversed.

Claims 1 and 9 recite a two-optical measuring system combined for xy-position detection. Yang discloses two optical measuring devices, one is an alignment detection system (IAS) used for xy-position detection, and one is a multi-focus position detection system (elements 21, 22) used for z-position detection. However, Yang fails to disclose or suggest two optical measuring system combined for xy-position detection.

Finarov teaches an optical line profile determination by carrying out two optical measurements, where the position information derived from one optical measurement is utilized for correcting the position information of the other optical measurement. However, in contrast to the subject matter of claims 1 and 9, Finarov does not teach using the result of a line profile determination in order to correct a position information. According to the subject matter of claims 1 and 9, an optical position determination of an alignment mask is correlated with an optical profile determination of the alignment mark to calculate a precise position information item of the alignment mark. The combination of Yang and Finarov would neither teach such a specific combination of two optical measurement methods, nor the advantages achievable with respect to the calculation of a precise position information item of an alignment mark. For at least these reasons, the features of claims 1 and 9 are not taught or suggested by Yang and Finarov, either alone or in combination.

The remaining claims are allowable at least due to their respective dependencies.

Applicant requests that this rejection be withdrawn.

Claim 17 is rejected under 35 USC 103(a) as being unpatentable over Yang, U.S. Patent No. 6,724,464 in view of Finarov, U.S. Patent No. 6,657,736 and further in view of Kato, U.S. Patent No. 5,726,757. This rejection is respectfully traversed.

Claim 17 is allowable at least due to its dependency from claim 1 and further in view of Kato's failure to overcome the deficiencies of Yang and Finarov. Applicant requests that this rejection be withdrawn.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark Office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket no. 543822004600.

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Respectfully submitted,

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